

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FREDERICK O. OPIYO,

Plaintiff,

v.

Case No. 09-13609

HON. GEORGE CARAM STEEH
MAG. JUDGE CHARLES BINDER

DEPUTY H. BOEHM,
DEPUTY J. DARLING and
DEPUTY WEDGE,

Defendants.

_____ /

ORDER ADOPTING IN PART MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

This prisoner civil rights case was referred to Magistrate Judge Binder for all pretrial matters. The court previously entered an order dismissing certain defendants and claims. Now before the court is the motion for summary judgment filed by the three remaining defendants. Magistrate Judge Binder has issued a report and recommendation concluding that the court should grant defendants' motion for summary judgment because plaintiff failed to exhaust his administrative remedies, and, alternatively, because plaintiff's claims fail for substantive reasons. No objections to the report and recommendation have been filed and the time period for filing objections has expired. The court has reviewed the file, record, and magistrate judge's report and recommendation and accepts the magistrate judge's recommendation regarding administrative exhaustion and Rule 56(f). Because plaintiff's failure to exhaust his administrative remedies is dispositive of the case, the court need not rule on the other arguments presented in defendants' motion for summary

judgment. Accordingly,

IT IS ORDERED that the magistrate judge's report and recommendation regarding administrative exhaustion and Rule 56(f) is adopted and defendants' motion for summary judgment is granted based on plaintiff's failure to exhaust his administrative remedies.

Dated: September 16, 2010

s/George Caram Steeh

GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on September 16, 2010, by electronic and/or ordinary mail.

s/Josephine Chaffee
Deputy Clerk